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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

LORENZO MORENO,

Defendant and Appellant.

F062876, F062877

(Super. Ct. Nos. BF131629A, BF136012A)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Kern County. Kenneth C. Twisselman, II, Judge.

Allan E. Junker, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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\* Before Levy, Acting P.J., Cornell, J., and Gomes, J.

In April 2010, in Kern County Superior Court case No. BF131629A (first case), appellant, Lorenzo Moreno, pled no contest to assault by means of force likely to cause great bodily injury (Pen. Code, § 245, subd. (a)(1)). In May 2010, the court suspended imposition of sentence and placed appellant on three years' probation with various terms and conditions, including that appellant serve one year in county jail and obey all laws.

On June 15, 2011, in Kern County Superior Court case No. BF136012A (second case) a jury convicted appellant of assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)). Immediately following the announcement of the verdict, the court conducted a hearing at which it found appellant had violated his probation in the first case, and revoked appellant's probation.

On July 14, 2011, at a sentencing hearing covering both cases, the court imposed the three-year midterm in the second case and a concurrent three-year midterm in the first case. Also on July 14, 2011, appellant filed a timely notice of appeal in each case. On September 16, 2011, this court ordered the two appeals consolidated.

Appellant's appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, with citations to the record, raises no issues, and asks that this court independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) Appellant has not responded to this court's invitation to submit additional briefing.

### **FACTS<sup>1</sup>**

Vell Saenz testified to the following. In March 2011, she was in a dating relationship with appellant.<sup>2</sup> On March 13, 2011, around midnight, appellant came to

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<sup>1</sup> Because the instant appeal, with respect to the first case, is concerned only with the revocation of probation, we do not summarize the facts of the underlying offense in the first case. Our factual summary is limited to the underlying offense in the second case, upon which offense the revocation of probation was based, and is taken from the transcript of the June 2011 trial.

<sup>2</sup> Except as otherwise indicated, our factual summary is taken from Saenz's testimony.

Saenz's house and entered her bedroom, uninvited, through an open window. He was intoxicated and he was yelling. He was angry because he thought, incorrectly, that someone was with Saenz in her bedroom.

Once inside the house, he fell to the floor. Saenz knelt down in front of him and "tried to calm him down," at which point appellant swatted at a small chair belonging to Saenz's daughter. He struck the chair and it "came right at" Saenz, striking her and cutting her on the middle of her forehead and above her right eye, causing her to bleed. She went into the bathroom and appellant left the room. Appellant struck the chair out of anger, but he was not trying to hit Saenz with it.

A police officer later came to Saenz's house. She did not tell him that appellant grabbed a chair and hit her with it.

City of Bakersfield Police Officer Jeff Martin testified that in response to a report of a "[d]omestic disturbance or domestic assault in progress" shortly before midnight on March 13, 2011, he and his partner went to a residence where he made contact with Saenz.<sup>3</sup> She had suffered cuts to her forehead and above her right eye. Officer Martin went into the backyard of the residence, where he saw appellant lying on the ground. Officer Martin and his partner then took appellant into custody.

Thereafter, Officer Martin spoke with Saenz, who told him the following. Appellant came to her house, removed the screen from the window and entered. He accused Saenz of "cheating on him." The two argued, and appellant, while lying or sitting on the floor, grabbed a white plastic chair and hit Saenz with it.

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<sup>3</sup> The remainder of our factual summary is taken from Officer Martin's testimony.

### **DISCUSSION**

Following independent review of the record, we have concluded that no reasonably arguable legal or factual issues exist.

### **DISPOSITION**

The judgment is affirmed.